

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

OWEN W. BARNABY,)
Plaintiff)

Vs.) Hon. Robert J. Jonker
) Hon. Mag. Sally J. Berens

MICHIGAN STATE GOVERNMENT, ET, AL)
Defendants) Case No. 1:22 -CV- 1146

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CERTIFICATE OF CONURRENCE
REQUEST FOR DEFAULT JUDGMENT

In accordance with W.D Mich. LCivR 7.1(d) and other local rule, the undersigned hereby certifies that on December 11, 12, 2023, Plaintiff contacted Defendants via their legal representative to ascertain whether they would object to Plaintiff's request of the Clerks to enter Default Judgment due to Defendants' failure to file an answer to Plaintiff's Complaint (ECF Nos. 10, 36), or a valid Motion, and or a Motion Under Rule 12:

First: Defendant – City of Benton Harbor

On December 11, 2023, Plaintiff contacted Defendant – City of Benton Harbor, Attorney Emily P Jenks, at telephone (313) 393-7582 and left voice mail message, with the hipe that we could discuss concurrence of Plaintiff's Request for Default Judgment due to their failure to file an answer to Plaintiff's, 'Second and Third Amended Complaint (ECF Nos 10, 36)' or a Motion Under Rule 12, and due to their failure to file an appeal to District Court's Judgment (ECF No 69). As such Plaintiff is not sure if they will file an objection.

Second: Niles Township Defendants

On December 11, 2023, Plaintiff contacted Defendants Attorney Law Office and spoke by telephone to an officer personnel that promised Plaintiff to delivery message to the appropriate attorney on behalf of his Clients Defendants Niles Charter Township and the Niles Charter Township Board of Trustees (together the “Township Defendants”) ascertain if they will object to Plaintiff’s Request for Default Judgment due to their failure to file an answer to Plaintiff’s Third Second Amended Complaint (ECF No 36)’ or a valid Motion, and or a Motion Under Rule 12, and due to their failure to file an appeal to District Court’s Judgment (ECF No 69). As such Plaintiff is not sure if they will file an objection.

Third: Berrien County Defendants

On December 11, 2023, Plaintiff contacted Defendants’ Attorney, Mr. Thaddeus Hackworth at Telephone (269) 983-7111, ex 8416 on behalf of his clients: 1), Defendant - Lori D. Jarvis Registrar; 2), Defendant - Lora L. Freehling Registrar; 3), Defendant - Kathleen Culberson, Notary Public; 4), Defendant – Bret Witskowski, Treasurer; 5), Defendant – Shelly Weich, Treasurer; 6), Defendant – Board of Commissioner; 7), Defendant – Attorney McKinley R. Elliott; 8), Defendant – Attorney Donna B. Howard; 9), Defendant – Attorney James

Mcgovern; 10), Defendant – Berrien County Government; and 11), Defendant – Bret Witskowski, in his Individual capacity to ascertain concurrence to Plaintiff's Request for Default Judgment due to their failure to file an answer to Plaintiff's Third Amended Complaint (ECF No 36)' or a valid Motion, and or a Motion Under Rule 12, and due to their failure to file an appeal to District Court's Judgment (ECF No 69), and he denied concurrence.

The Summons and Complaint were served on: 1), Defendant - Lori D. Jarvis Registrar; 2), Defendant - Lora L. Freehling Registrar; 3), Defendant - Kathleen Culberson, Notary Public; 4), Defendant – Bret Witskowski, Treasurer; 5), Defendant – Shelly Weich, Treasurer; 6), Defendant – Board of Commissioner; 7), Defendant – Attorney Mckinley R. Elliott; 8), Defendant – Attorney Donna B. Howard; 9), Defendant – Attorney James Mcgovern; 10), Defendant – Berrien County Government; 11), Defendant – Bret Witskowski, in his Individual capacity, by US Postal certified mail, with restricted Delivery and with return receipt. Plaintiff has spoken with Defendants' Attorney, Mr. Thaddeus Hackworth, before he received and signed to the service on behalf of his same Clients. The signed return receipt, PS Form 381,(copied Green Card) is further proof of service on all named Defendants in the record of the Court.

Berrien County Defendants via their legal Attorney, Mr. Thaddeus Hackworth take issue with both the District Court's Fed. R. Civ. P. 12 (b)(1)(A) and Fed. R. Civ. P. 55 and Federal Rule of Appellate Procedure 25(c). 6 Cir. R. 25(f)(1)(B) laws, which himself admitted to received service on behalf of his own clients.

The United States District Court for the Eastern District of Michigan, that issued the Summons clearly states, that:

A lawsuit has been filed against you.

“Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney..."

“If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.”

Moreover, this United States District Court for the Western District of Michigan, that issues Summons in Civil Actions states, that:

AO 440 (Rev. 01/09) Summons in a Civil Action - MIWD (Rev. 07/15)

“YOU ARE HEREBY SUMMONED and required to serve upon plaintiff, an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure within ___, days after service of this summons on you (not counting the day you received it). If you fail to respond, **judgment by default will be entered against you** for the relief demanded in the complaint. You must also file your answer or motion with the Court.”

Fourth: State of Michigan Defendants

On December 11, 2023, Plaintiff contacted Defendant's Attorney, Pendrick Kimberly Attorney General of Michigan Office, on behalf of her clients: 18), Defendant – Kendell S. Asbenson, Assistant Attorney General of Michigan; 19), Defendant – Hon. Rick Snyder Former Governor of Michigan; 20), Defendant – Hon. Jennifer Granholm, Former Governor of Michigan, Plaintiff wanted to discuss

ascertaining concurrence to Plaintiff's request of the Clerks to enter Default Judgment due to Defendants' failure to file an answer to Plaintiff's Complaint (ECF Nos. 10, 36), or a valid Motion, and or a Motion Under Rule 12. Attorney Pendrick Kimberly via Attorney General of Michigan Office said they will get back to Plaintiff. As such Plaintiff is not sure if they will file an objection.

Fifth: Holmstrom Defendants

On December 11, 2023, Plaintiff contacted Defendants Attorney Jefferey R. Holmstrom on behalf of himself as, 13), Defendant – Attorney Jefferey R. Holmstrom and his assigned, 14), Defendant – Holmdtrom Law Office, to ascertain if they will object to Plaintiff's Request for Default Judgment due to their failure to file an answer to Plaintiff's Third Amended Complaint (ECF No, 36), or a motion under rule 12, and they did not respond to Plaintiff. Plaintiff called Attorney Holmstrom office telephone, (269) -983-0755 and cell (269) -930-xxxx, and left voice mail message and he did not respond. As such Plaintiff is not sure if they will file an objection.

Respectfully Submitted,

Dated: December 12, 2023,

\S/ Owen W. Barnaby
Owen W. Barnaby, In Pro Se.

CERTIFICATE OF SERVICE

The undersigned states that on the 12th day of December 2023, a duplicate original of Plaintiff's, "CERTIFICATE OF CONURRENCE to Motion for Default judgment", was filed with the Clerk of the Court, using the ECF System, which will provide electric notice to the parties of record, and I have mailed by U.S. Postal Service the same to relevant non-ECP participants.

Respectfully Submitted,

Dated: December 12, 2023,

\S/ Owen W. Barnaby
Owen W. Barnaby, In Pro Se.